

THE BRAZILIAN JUDICIAL PROTECTION OF THE SOCIAL INCLUSION

Jônatas Luiz Moreira de Paula*

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Summary

1. The State of the Art. 2. A view of the Brazilian social complexity. 3. The rethink of the social contract. 4. The compulsory need of faithful execution of the budgetary law. 5. The possibility of the jurisdictional control of the execution of the budgetary law. 6. The Principle of the Proportionality as factor of resolution. 7. Conclusions. Bibliography.

ABSTRACT: Once evidenced the Brazilian social exclusion, it is necessary to implement the public policies of social inclusion. So, the Judiciary Power presents itself as a protagonist of the rethinking of the Social Contract upon imposing the faithful execution of the budgetary law and consequently to reach the desired stability and continuity of the public politics of social inclusion.

KEYWORDS: Social Exclusion; Public Policies; Judiciary Power; Jurisdictional Control of the Execution of the Budgetary Law.

1 THE STATE OF THE ART

a) The Brazilian social abysses are worldwide known. To enumerate examples it would demand a lot of investigations and analyses, beyond to deviate the focus of the boarding of the present essay.

That's why, it exclusively considers the analyze of one of the causes of social abysses, that is, the absence of one public politics that allows the continuity and stability for the social inclusion of underprivileged classes.

b) So that for the stability and continuity of the public politics of social inclusion, four steps reveal necessary, namely:

- i. a view of the Brazilian social complexity;
- ii. the rethink of the social contract;

* Lawyer. Professor of the UNIPAR-University Paranaense. Master, Doctor and Pos-Doctor in Law.

iii. the establishment of an obligator character of the budgetary law;

iv. the possibility of the jurisdictional control of the execution of the budgetary law, beyond other secondary measures.

c) With the definition of these four steps, consequently, it will get a projection of the summary of the essay.

2 A VIEW OF THE BRAZILIAN SOCIAL COMPLEXITY

a) The Brazilian society is complex because of historic reasons. The Brazilian colonization permitted the insertion of the European people (Portuguese) and of the African people (various national groups), together with the Brazilian Indians. However, only the European people would prosper. The numbers about are infallibles.

Of the total of the Brazilian population, 51,4% are white race; 5,9% are black race; 42,1% are brown race; and 0,6% are yellow and Indian races.

According to Brazilian Racial Atlas, published in 2004, about 65% of the Brazilian poor are black people. Besides, 50% of the Brazilian black people are under of the poverty line, while that 25% of the Brazilian white people are in the same situation. Moreover, 25% of the Brazilian black people are under of the indigence line against 10% of the Brazilian white people.¹

The Brazilian black people and those considered brown people are responsible for about 67,8% of the 10% of the poorest Brazilians, while that the Brazilian white people are responsible for 32,2% of the mentioned universe of the 10%. Also the participation in the wealth of the Brazilian black and brown people is reduced, about 13,2% of the 1% of the richest Brazilians. This is because the monthly income of the white people is, on average, 51% superior in relation of the monthly income of the black and brown people.²

With regard to the Brazilian Indian, it is presented its reduction since the Brazilian colonization. It was estimated in about 1-15 millions of habitants when the Brazilian discovery; currently it is estimated that 460 thousand of individuals³ are added in the poverty and different forms of the social exclusion.

¹ http://www.planalto.gov.br/seppir/pesquisas_indicadores/raca/atlas_racial/ARB-Pobreza_e_Indigencia.pdf. Accessed in 27/04/07.

² "Realidade em preto e branco". Revista Desafios do Desenvolvimento. Dezembro de 2005. Ano 2. Nº 17. IPEA. Brasília, p. 49-50.

³ www.funai.gov.br Accessed in 27/04/07.

b) Another form to have a vision of the complexity of the Brazilian society is by the analysis of the social fragments. For example, the wealthy social classes dispense governmental aid for their development. However, the same can not be said of the poor classes. These people need the governmental aid, through public programs that in some cases aim their survival. Thus, public programs as “Family Ship” and “Eradication of Infantile Work” end up distinguishing the Brazilian social classes, because are programs of the income transfer.

Into the poor classes is visible the need of governmental interference as a form of guarantee of their existence, it can be observed by services of the public health, public education and social assistance, where is tried to constitute a public social protection network.

c) On the other hand, there is a study of the Brazilian Institute of the Geography and Statistics (IBGE) published in 2005 very enlightening to this essay.⁴ For example, the social reality of Brazil pointed toward a mainly urban society – about 83% of the population – with high fertilization tax among black and brown women, principally in the poorer Brazilian region, with regard to white women.

The study of IBGE had observed a tendency of aging of the Brazilian society, where in 1991 pointed age average of 21,7 years old, and in 2004 age average of 26,2 years old.

Also the children’s mortality tax is high, with about 26,6%, although this tax already had been about 45,1% in 1991 and always prevailing among black and brown Brazilian women and the poorer Brazilian region. It is also truth that death tax for under one year old is reducing, with 10,3% of the cases in 1991, against 4,2% currently.

Into the educational field, the study of the IBGE pointed towards an illiteracy tax 15 years old people or more in about 11,4% of all Brazilian population; but the illiteracy tax of the white people is, on average, half of that registered on black and brown people. However, this tax raises when analyzed the functional illiteracy tax of the 15 years old people or more in about 24,4%, being preponderantly black and brown people.

The study of IBGE relates illiteracy tax with activity tax of the groups of workers with little instruction – in an end are 52,2% of the unskilled workers, without instruction or with less than one year of instruction, while in other end, 82,5% are skilled workers. The activity tax of the women workers unskilled (without instruction or with less than one year) is 36,1%, against 69,2% of the

⁴ www.ibge.gov.br . Indicadores Sociais IBGE 2005. Accessed in 26/08/07.

men workers unskilled.

It is identified in the study that only 46,4% of all economically active people contribute for Social Security. Besides, about the remuneration, 28,9% of the employees of the informal economy receive half minimum salary and 16% receive more than two minimum salary, while 10,4% of the employees of the formal economy receive half minimum salary and 28,4% receive more than two minimum salary.

About the remuneration properly said, the study pointed that employees of the formal economy receive on average 55,53% more than employees of the informal economy.

However, the social exclusion crystallizes when it is compared the 40% poorer with the 10% riche: those own monthly income equivalent to 0,77 of the one minimum salary while these own monthly income equivalent to 12,51 of one minimum salary.

The social exclusion is also showed by the absence of basic sanitation to 61,5% of urban residences of families that own monthly income equivalent to half of one minimum salary and to 45,9% of urban residences of families that own monthly income equivalent to half of one minimum salary. About 33,6% of urban residences don't own any type of sanitation service.

In the familiar environment, the study shows that the number of people is proportional to the smallest monthly income per capita on minimum salary: to families that own income per capita equivalent to $\frac{1}{4}$ of minimum salary, there is 4,6 individuals; to families that own income per capita equivalent to $\frac{1}{4}$ of half of one minimum salary, there is 3,9 individuals; to families that own income per capita equivalent to $\frac{1}{2}$ of one minimum salary, there is 3,3 individuals; to families that own income per capita equivalent to one of two minimum salary, there is 3,0 individuals; to families that own income per capita equivalent to two of three minimum salary, there is 2,8 individuals; to families that own income per capita equivalent to three of five minimum salary, there is 2,7 individuals; and to families that own income per capita equivalent to more than five of minimum salary, there is 2,5 individuals.

Another factor of the social exclusion detected for the study of IBGE occurs with the following comparison: the tax of school frequency of families with low monthly income is smaller than the tax school frequency of families with high monthly income – the differences exceed in more than fourfold, that means one child has fourfold of chance of do not achieve his complete scholar formation.

The young between 18 and 24 years old derived from the rich classes own, on average, 31,5% more school frequency tax when compared with young

of the same age deriving from the poor classes.

Another retract of the social exclusion is verified in numbers of black and brown scholars between 18-24 years old in university education, whose tax is 16,5%, while the tax of white scholars is 46,6%.

This tendency results in the elimination of scholars of the university education, creating a social caste, because the study pointed that the older people tend to remain less time in the education. This impedes that people that lost their time in education access the university education.

Another factor of the social exclusion detected for the study of IBGE refers to the situation of the elderly (people with more than 60 years old): 36,4% couldn't study or couldn't exceed one year; 21% couldn't study between one and three years; 29,8% couldn't study between four and eight years; 12,8% couldn't study above nine years. What highlights this situation is the fact that 42,3% of the elderly have monthly income per capita equivalent to one minimum salary.

White people make part of 33,4% of all Brazilian poverty, and that black and brown people make part of 66,6% of all Brazilian poverty. On the other hand, the white people make part of 84,2% of all Brazilian riches, and that black and brown people make part of only 15,8% of all Brazilian riches.

d) In another study⁵, however having as focus the “Family Ship”, in the main public program of the income transfer, the retract of the social exclusion is revealed.⁶

For the effect of the program, is considered poor the person that lives with income monthly per capita no higher than 31,57% of one minimum salary, and “extremely poor” the person that lives with income monthly per capita no higher than 15,78% of one minimum salary.

For this study, is verified that the majority of beneficiaries of the program are brown people (57,4%), with white people (28,4%), black people (7,8%), Indian people (0,5%) and yellow people (0,4%).

Also the study revealed that the majority of the beneficiaries are resident in urban area (69,2%); however about ¼ of the beneficiary families use water without treatment and 36,4% of the families live in residence that don't own sanitary treatment for solid wastes.

⁵ www.mds.gov.br. accessed in 02/09/07.

⁶ This program aims to transfer the income in benefit to families that own income monthly *per capita* no higher than 15,78% of one minimum salary and that have no kids, or families that own income monthly *per capita* no higher than 31,57% of one minimum salary, with the condition that the children (0-15 years old) attend school and keep the basic health cares. This program, currently reach 11,100 millions and hundred thousand of families. Also currently the government proposes to reach 16-17 years old young's.

The “Family Ship” is present as a program addressed to young public, because of the profile of their beneficiaries: 59,6% of the beneficiaries are less than 24 years old. For sex, 53% of the beneficiaries are women.

According to the study, 57,7% of the beneficiaries don't attend school, what revealed to be a program directed to young public for the social exclusion for the economic factor. However, only 0,1% of the beneficiaries attend university education.

e) These information has as finality to demonstrate the Brazilian social reality. Seen in numbers, the Brazilian social reality is well evidenced and social exclusion is a fact that historically is present in Brazil.

For this reason, it is necessary to rethink the political pact, with the objective of inserting excluded social classes by the Brazilian economic and political systems.

An analyze of the doctrines of the social contract is indispensable.

3 THE RETHINK OF THE SOCIAL CONTRACT

a) The traditional doctrines of the social contract had basically allowed the construction of the State, from a relation between State and citizen. It can be seen in the Thomas Hobbes' ideas, when it conspires for an interventionist State, under the Leviathan's figure, on behalf of the mutual social security.

In opposed direction, John Locke supported a State where if it granted a great freedom and protection to the property. Attributes to Locke one of the bases of the Liberal State.

Another manifestation occurred in Montesquieu, with the diffusion of the division of the State in three politics powers, when commented about the system of laws and the English politics order.

But, without doubt, Jean-Jacques Rousseau is recognized as the great idealizer of the social contract. For this doctrine, it is verified the construction of the citizenship from the establishment of the equality among the individuals, from the alienation of their natural laws for the achievement of the civil laws.

In all the cases, the social contract fits to the format of the political pact for the association, making possible the tolerance among people of distinct classes.

b) In the XIX Century the Marxist lesson imposed a doctrinal revision, by the materialistic vision of the State, the social order, the politics order and the system of laws.

In the Marxist vision, the State was a bourgeois expression, because of the defense of the property. To Marx, the social structure is seated in the capitalist economic order, when it reproduces domination over certain class: the working class. This order according to a Marxist super structure, is composed by the politics order and the system of laws.

In the vision of Gramsci, a social order is a product of one representation of the politics order and the system of laws that he classifies as structure. On the other hand, a super structure is composed by social, cultural, educational and religious order. This conception allows to argue a civil society from the politics society, that mean's to discuss a system of civil freedoms analyzed under an ideological aspect.

c) In the XX Century the Marxist ideology was attenuated because of the social democrat governments. The Weimar's Republic and the New Deal well represent the Welfare State.

The social contract was rethought with a consideration for a civil freedom system in change of a taxation of economic relations and of the property. Because of this the poverty, deserved great governmental attention, and it is not a concept of the "absence of resources" anymore, to be understood as the "absence of public investment". This change made possible the estatal interventionism in the economic, public health, public education and social security areas. The social inclusion became a priority of the State.

d) However, in the eighties and nineties, the State had a liberal politics experience, resulting in the privatization of public companies and the public resources (Brazil, Argentina, Bolivia and Venezuela). The State had great reduction in its social importance. The social inclusion would be under responsibility of economic relations, in the belief of "miraculous power of the market".

The apex of this liberal politics happened in the decade of ninety with the "Consensus of Washington".

e) Currently this liberal politics was reviewed, presenting to the Latin-American States a social democrat position as in Brazil, or a strong interventionist position as in Venezuela and Bolivia, into the conception of "Socialism of the XXI Century".

The fundamental argument is a change of the political publics positioned for a social inclusion, especially for the people with fall income and those who are involved in situations of vulnerability.

Consequently the State returned to an interventionist behavior, however the estatal interventionism in focus, to recover the social justice, the excluded people as the Indians and the blacks, or those who need special cares, as deficiency carriers, or to combat all kinds of discrimination (sexual, religious, cultural, regional).

The social justice into XXI Century is conceived under auspices of the affirmative action, but with much more enlarged area.

4 THE COMPULSORY NEED OF FAITHFUL EXECUTION OF THE BUDGETARY LAW

a) It's not enough the government chooses a social political to be considered a Social Democrat State. Such intent only will be able to be reached when State incorporates itself a social policy, to be a policy of the State and not a policy of the government.

Wherefore occurring the social policy of the State will have characteristics of the stability and of the continuity in the execution of social inclusion programs. And it will need a faithful fulfillment of the budgetary law.

The admissibility of this position in Brazil is polemic, however it is necessary to realize the political social inclusion.

b) The budgetary law in Brazil is a merely programmatic law, where it is established a government of program, without the obligation of effective expenditures with no previous bond for a law determination.

Exceptionally to some areas are yielded obligatory expenses, into a percentage established for the law. Are typical examples the areas of public health and education that, respectively, must receive the equivalent to 25% and 15% of the public budgetary.

But in the area of social politics, excluding the areas previously mentioned, there is the compulsory obligation of the effective expenditures. For this reason, programs as "Family Ship" and "Eradication of Infantile Work" vary their dimension year after year, with repercussion in the numbers of beneficiaries and the monetary value of the benefit.

c) This situation is aggravated when the social politics competes with other no social areas in the public resources, specially the service of the public debt. In the year 2000, Brazil destined 10,25% of the Gross domestic product for the payment of the public debt and kept this percentage level years after, because of the Stand-by pacts celebrated with the International Monetary Fund.

These pacts had imposed a hard fiscal management, culminating in primary fiscal superavit in 4,25% and 4,50% of the Gross domestic product, in the years 2003-2004.

In the years 2005-2006 the situation didn't change. The hard fiscal policy management had imposed primary fiscal superavit in order to 4,70% of the Gross domestic product.

However, the relation between the public debt and Gross domestic public didn't change a lot. Despite of all the fiscal effort, this relation is still in the level of 50%. This is an effort with so much social cost and low fiscal compensation.

The politics of containment of public resources became common in Brazilian governments, what economy realized was exclusively destined to pay the public debt. The social area, excluding those that possess expenditures obligatory in the budgetary law, receive budgetary cuts and thus are deprived of public resources that would finance social inclusion programs.

d) The absence of the faithful execution of the budgetary law creates a social debt, estimated annually in US\$ 3.775.563.712.637,65⁷, as noted Eliana Magalhães Graça⁸. Consequently, it created the income concentration, generating the social inequality and poverty.

This social debt grows up when it is verified politics options in the execution of the budgetary law and it is evidenced an option to destine more than the 70% of the public budgetary to public debt or the refinance of the public debt.

For this reason, the rule of the faithful execution of the budgetary law becomes imperious, to guarantee the necessary public investments in the social programs.

5 THE POSSIBILITY OF THE JURISDICTIONAL CONTROL OF THE EXECUTION OF THE BUDGETARY LAW

a) That's why it is evident the jurisdictional necessity of the control of the execution of the budgetary law. This control will permit that the public investments in the social area are continuous and permanent.

This admissibly would implicate in a greater participation of the

⁷ In Brazilian currency, R\$ 7.200.000.000.000,00. Conversion realized in 06/08/2007, with con US\$ 1 commercial dollar value R\$ 1,905.

⁸ GRAÇA, Eliana Magalhães. *Para onde vai nosso dinheiro?* Article published in http://www.abong.org.br/novosite/download/1_eliانا.pdf. Access in 06/08/2007.

Judiciary in the execution of social programs. The Judiciary resurges as a power of the State, with an interferent power in the governmental business, as the use of public resources for programs foreseen in the budgetary law.

b) The Brazilian Judiciary now serves this expectative in punctual cases, as the decision of STJ-Superior Tribunal of Justice that determinated nursery scholls, for the reason of the constitutional provision (arts. 7º, XXV, y 208, IV) and infra-constitutional (Federal Act nº 8.069/90, art. 54, IV).⁹

Also in another decision, the STJ asserted the compulsory supply to the cure of people with serious illnesses and low financial condition.¹⁰

In both cases, the Judiciary asserted the rights of personal dignity and public health.

c) These decisions disclose a reorientation of the STJ. Decisions made years ago had given effectiveness to the principle of the separation of powers, previous in the article 1º, of the Brazilian Constitution.

Decisions that prevented the obligation of the Executive Municipal Power in to realize reforms in the public hospital and to equip with ambulance, even being the only in the municipality¹¹; or that prevented the Public Prosecutor of imposing to the Executive Municipal Power in realizing construction to protect the environment¹², it well demonstrates a change of position occurred in the STJ.

d) This change also discloses a reinterpretation of the principle of the separation of powers, letting that Judicial Power get an independence with regard to the other Powers of the State.

Arthur S. Miller already pointed that in any modern industrial society, the Judiciary is an essential part of the system of government and with the finality of underpinning the stability of the system and to protect its system.¹³

Further in his book, Miller noted with a passage of the Chief Justice Earl Warren in 1965 that the separation of powers was not instituted with the idea that it would promote governmental efficiency, but it was, on the contrary, looked for a bulwark against tyranny.¹⁴ However, that is an idea that was rejected,

⁹ RESP nº 575280/SP, 1ª T., rel. Min. Luiz Fux, j. 02/09/04.

¹⁰ RMS nº 23184/RS, 1ª T., rel. Min. José Delgado, j. 27/02/07.

¹¹ AGRESP nº 252083/RJ, 2ª T., rel. Min. Nancy Andrighi, j. 27/06/00.

¹² AGA nº 138901/GO, 1ª T., rel. Min. José Delgado, j. 15/09/97.

¹³ MILLER, Arthur S. *Politics, Democracy, and Supreme Court*. Connecticut: Greenwood Press, 1985, p. 8.

¹⁴ MILLER, Arthur S. *Politics, Democracy, and Supreme Court...*, p. 44.

because it is outdated.

But, the separation of powers does not mean a limitation in the Executive hegemony or a limitation of the Legislative power. The participation of the Judiciary in a modern society is assured by the effectiveness of the system of laws, of which the Judicial Power is element that must integrate its realization. With that, the Judiciary accepts the condition of governmental cooperation as norm in the Right Modern State.

e) This position is associated with the history of the evolution of the U.S. Supreme Court. It can be observed from Arthur S. Miller's book, where he dedicates all Chapter 5.¹⁴

Charles H. Sheldon, even without broaching directly the subject, returned to the question: separation of Powers – exclusive or mixed?¹⁶

According to Sheldon, the thesis of the separation of powers exclusive appears with the doctrines of John Locke and Montesquieu. For this reason, the “exclusive” version of the separation of powers dictates that the government will be divided into three separated functional departments or branches – lawmaking, law enforcement and law interpretation – with each branch confined to its own function and, consequently, unable to infringe upon the functions of the other branches. With the power so dispersed, there is less chance for a monopoly development that would inevitably lead to abuse and the loss of liberty.¹⁷

However, the separation of powers will be mixed, according to Sheldon, when it is necessary to keep the direction of power. In the case, there is an expansion of the functions beyond the limit of the single and original function.¹⁸

Much more than an instrument against tyranny, the separation of powers is seen as a necessary instrument for governmental efficiency. This instrument will be measured by different degrees, as affirmed Sheldon.¹⁹ The compulsory need of faithful execution of the budgetary law is a good example because social values are involved.

f) Moreover there is a law that permits to impose upon the Executive Power the realization of the public programs in the social area. This law permits to impose upon the Executive Power obligation to do or not to do, as formally a

¹⁴ MILLER, Arthur S. *Politics, Democracy, and Supreme Court...*, p. 44.

¹⁵ MILLER, Arthur S. *Politics, Democracy, and Supreme Court...*, p. 199-226.

¹⁶ SHELDON, Charles H. *The Supreme Court and the Fundamental Law*. Oxford: Edited by Stephen L. Wasby, 2002, p. 63-76.

¹⁷ SHELDON, Charles H. *The Supreme Court and the Fundamental Law...*, p. 64-65.

¹⁸ SHELDON, Charles H. *The Supreme Court and the Fundamental Law...*, p. 67.

¹⁹ SHELDON, Charles H. *The Supreme Court and the Fundamental Law...*, p. 67-68.

Federal Act nº 7.347/85.

Therefore Brazilian State has the obligation of promoting the realization of the social justice, because of the constitutional disposition determined in the article 3º. This constitutional role is clear in establishing as fundamental objective of Brazil Federative Republic, the constitution of a free society, just and supportive (I); that guarantees the development of a social nation (II); that eliminates poverty and marginalized and to reduce the social and regional inequalities (III); and to promote the welfare to everyone, without prejudicing the origin, race, sex, color, age and any other ways of discrimination (IV).

Like this the Brazilian State has a teleological behavior to carry a social development project that consists in the obligation to do or not to do.²⁰

6 THE PRINCIPLE OF THE PROPORTIONALITY AS FACTOR OF RESOLUTION

a) The Brazilian social complexity and the business governmental own have apparent collision among rights: on the one hand, there is the Fundamental Right of the underprivileged classes when social inclusion, principally to benefit all Brazilian society, and on the other hand, there is the Right of Public Administration (generally the Executive Power) the management of the public resources, specially the control of the publics spending.

For this reason, there is a conflict of the rights: between the Fundamental Right to social inclusion and of the management of the public resources. As it treats about the collision of rights, it is necessary to adopt the Principle of the Proportionality as factor of resolution.

b) The Principle of the Proportionality adopted in Brazil follows an European orientation, specially of the Germany doctrine.

For this reason, the Principle of the Proportionality presents as a manifestation of the Fundamental Rights and has as objective to establish a major law standard: the Principle of the Prohibition of the Excess, because the Proportionality looks for Jurisdictional control of the administrative acts, specially the discretionary and arbitrary acts.²¹

But this realization of the Principle of the Proportionality must obey the next stages: existence of the necessity of estatal intervention; that this intervention

²⁰ PAULA, Jônatas Luiz Moreira de. *A Jurisdição como elemento de inclusão social: revitalizando as regras do jogo democrático*. Barueri: Manole, 2002, p. 171-175.

²¹ CANOTILHO, J. J. Gomes. *Direito Constitucional e Teoria da Constituição*. 4ª ed. Coimbra: Almedina, 2000, p. 266-269.

be right and the minimum possible; and the expected result be proportional to the coercive burden of the intervention.²²

The Principle of the Proportionality presents as “just measure” between means and purpose, put under the sense of the moderation.²³

c) The Brazilian jurisprudence has invoked the Principle of the Proportionality to justify decisions in favor of politics public. An example of their application occurs in environment demands, with the finality of breaking the excess of the economic business in detriment of the balanced environment.²⁴

In support of the Human Dignity, the Principle of the Proportionality has been invoked to impose the concession of inexistent remedies in Brazil to sick people even though they have contracted private health plans and that treatment realizes in their residences.²⁵

The Principles of the Proportionality and Human Dignity also has been invoked, inclusively, to break the attitude of the creditor, as to limit the percentage of discount of the pension income.²⁶

7 CONCLUSIONS

For the analysis of the data and of the doctrinaires positions, it is necessary to have a change of governmental attitude, that's why the public investments in the social area are continuous and permanent.

This only will be possible if the public investments are qualified as investments of the Brazilian State, and not only of the Brazilian government. Consequently it will permit that Judicial Power be able to interfere in the execution of the budgetary law.

Occurring this, the Judicial Power shows as a bail of the Brazilian new social pact.

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²² CANOTILHO, J. J. Gomes. *Direito Constitucional...*, p. 268-269.

²³ CANOTILHO, J. J. Gomes. *Direito Constitucional...*, p. 269.

²⁴ ADI-MC nº 3540/DF, Trib. Pleno, rel. Min. Celso de Mello, j. 01/09/05.

²⁵ TJPR, A.I. nº 0430457-6, 9ª CCiv., rel. Juiz José Augusto Gomes Aniceto, TJPR, A.I. nº 283768-7, 18ª CCiv., rel. Des. Antonio Renato Strapasson, j. 15/03/05; TJPR, A.I. nº 296028-3, 10ª CCiv., rel. Des. Leonel Cunha, j. 06/07/05;

²⁶ TJPR, A.I. nº 0382907-2, 13ª CCiv., rel. Juiz Renato Braga Bettega, j. 11/07/07.

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A PROTEÇÃO JUDICIAL BRASILEIRA DA INCLUSÃO SOCIAL

RESUMO: Constatada a exclusão social brasileira, torna-se necessário implementar políticas públicas de inclusão social. Por isso, o Poder Judiciário se apresenta como protagonista do repensar do contrato social ao impor a fiel execução da lei orçamentária e, assim, alcançar a desejada estabilidade e continuidade das políticas públicas de inclusão social.

PALAVRAS-CHAVE: Exclusão social; Políticas públicas; Poder Judiciário; Controle jurisdicional da execução da lei orçamentária.

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