

The History of Social Security Reform after the Federal Constitution of 1988 - An Approach to Economic Legal Analysis.

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Abstract: Introduction: The present work addressed the social security reforms, after the Federal Constitution of 1988 when it instituted Social Security. Of paramount importance, social security, which is part of social security, aims to guarantee the minimum survival conditions for a significant portion of the population. In recent decades, with the increase in life expectancy and the birth rate decrease, several countries, including Brazil, have begun to face difficulties maintaining the financial and actuarial balance of their social security system, which has led to several reforms over the years. **Methodology:** To achieve the intended one, we used the deductive method and theoretical research in-laws, doctrines, scientific articles and websites related to the theme. **Resulted:** In this sense, this article demonstrated how the economic analysis of law can impact the economy through laws since its objective is to maximize wealth, allocated resources as efficiently as possible and, in the case of social security, ensure the protection of its insured and dependents throughout the generations.

KEYWORDS: Social Security; Social Security Reforms; Economic Analysis of Law; Brazil.

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I. Introduction

When analyzing social security in Brazil, it is possible to realize that, in the elaboration of the Federal Constitution of 1988, it failed to equate revenues as a counterpart, to justify the increase in spending on benefits that the new Constitution would bring. So much so that the main consequence was that, a few years after the Magna Carta was promulgated, there was the first change in the rules established about some benefits, because it was evident that, if something were not done, the imposed model would not be sustained.

To adapt to the economic and demographic changes of a country, reforms arise, especially those related to social security. Between 2009 and 2015, all OECD (Organisation for Economic Cooperation and Development) countries underwent some kind of reform. Such changes occur due to the aging process of the population because there is a drop in the birth rate and an increase in life expectancy, thus occurring the inversion of the age pyramid, significantly impairing the sustainability of the social security system, since, in the case of Brazil, assets are responsible for financing inactive ones, with other revenues.

II. Material And Methods

Using the deductive method and theoretical research in-laws, doctrines, scientific articles and websites related to the subject, the present work sought, in its first topic, to address Social Security, focusing on Social Security and its General Regime, detailing the benefits and some changes brought by the promulgation of the Federal Constitution of 1988, when the constituents sought to ensure social rights as fundamental rights. The second topic addressed the various changes (small reforms) that needed to be made over the years, culminating in the most significant reform, carried out in 2019 through Constitutional Amendment No. 103, which gave rise to the New Social Security; these changes sought to maximize the resources invested in Social Security.

The third and final topic aimed to address some considerations regarding the Theory of Economic Analysis of Law and how it could be applied in the social security reform that occurred in 2019 to ensure its sustainability, since the EDA intends fundamentally to grant distributive efficiency, balance and predictability to legal relations, with a greater focus on its effective outcome than on the analysis of the just or unfair. Finally, if some concepts of this theory had been applied to the promulgation of the Federal Constitution of 1988, the country would have undergone a less drastic reform.

III. Result

Social Security In The Federal Constitution Of 1988

It is a fact that Social Security in Brazil did not begin with the Federal Constitution promulgated in 1988, long before there were laws that supported this issue. However, as it is known, the Citizen Constitution created the concept of Social Security in Brazil to develop a social protection system for all Brazilian citizens, not only those who performed a paid activity (HORVATH; 2011).

This topic will seek to address the concept of Social Security and its benefits when promulgating the Constitution, to explain, in the next topics, the various reforms suffered in recent years.

Social Security Considerations 1988

Before the promulgation of the Federal Constitution of 1988, Brazil lived for twenty-one years under a regime of military dictatorship. With the period of democratization, which occurs with the National Constituent Assembly (1987/1988), the constituents sought to ensure social rights as fundamental rights. Thus, some constitutional rights were defined: education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the homeless (SILVA; 2019).

To ensure social security as a constitutional right, the Federal Constitution of 1988 laid down the Social Order in its Title VIII. Article 193 provides the following description: "the social order is based on the primacy of work and as an objective the social welfare and justice". It also included in the Social Order rights related to health, social security, and social assistance, as can be seen in Article 194.

Thus, it is possible to understand that Social Security is a part of the Social Order brought by CF/88 and can be defined as social insurance paid to the person who contributes. Such insurance is used to replace the taxpayer's income as this, for some reason, can no longer work (PIOVAN; 2021).

In this way, the taxpayer can only enjoy the benefits offered by Social Security if it is contributing to the system, justifying its contributory character. In this act, Article 201 of the CF/88 provides that "social security will be organized in the form of the General Social Security System, of a contributory nature and mandatory affiliation, observed criteria that preserve the financial and actuarial balance".

It is also important to consider that the 1988 Constitution introduced the precepts of universalization and equal treatment, precepts that unified urban and rural benefits; the eligibility of the rural benefit extended to the spouses, as it was previously restricted only to the head of the couple; unified the value of 1 minimum wage for all benefits, both social security and assistance; created proportional retirement for women, among others (BELTRAO; RAM; 2012).

Bertussi and Tejada (2003) consider social security as a "forced savings imposed on the citizen to guarantee in the future, after the loss of their work capacity, an income that conditions them to live in a society". This contribution guarantees some benefits to those who contribute, as will be seen below.

Social Security Benefits in 1988

Article 201 of the Federal Constitution of 1988 and its respective points contain that social security will be responsible for covering the events of temporary or permanent incapacity for work and advanced age; protect motherhood, especially pregnant women; protect workers in situations of involuntary unemployment; pay the family salary and the seclusion aid for dependents of low-income insured persons; pay the death pension of the insured, man or woman, to the spouse or partner and dependents.

To understand the beginning of the social security crisis, it is important to detail the main characteristics of the benefits established by the 1988 Constitution that were:

1. Retirement by age: 65 years for men and 60 years for women, with a reduction of 5 years for rural workers of both sexes, i.e., rural workers would retire at 55.
2. Retirement by the time of service: 35 years for men and 30 years for women, with a reduction of 5 years for teachers of both sexes.
3. Retirement proportional to the time of service: 30 years of service for men and 25 years of service for women.

Minimum and maximum values of benefits were equal for all taxpayers of the system, with no distinction between rural and urban populations (previously it was half a minimum wage for the rural population).

Giambiagi and Além (2000) consider that, among other measures, the reduction of the retirement age in rural areas resulted in a considerable increase in inactive expenditure, since all those aged 55 to 60 years (women) and 60 to 65 years (men) became immediately eligible to retire. The authors also emphasize:

Despite the social merit of each of these changes, the problem is that the expansion of rights was not accompanied by a simultaneous effort to increase revenue, to enable the financial balance of the system. The result was that social security – until then actuarially deficient, but a surplus in terms of cash, by collecting a volume of funds higher than the payment of pensions and pensions, having to bear an increasing volume of expenses, gradually stopped financing health, which until then was largely funded by the transfer of the difference between revenues and social security expenses. This difference gradually disappeared, which caused a crisis in the public health system in the first half of the 1990s (Giambiagi and Além (2000).

It is also important to consider that, before the 2019 Reform, Brazil was one of the few countries that adopted retirement for the time of service, later transformed into retirement by contribution time. This form of retirement, combined with proportional retirement, allowed a considerable number of people to retire before the age of 50 with full retirement. Exemplifying: by the Constitution, a teacher who started her work at the age of 18, could retire at the age of 43; a woman, who practiced another profession, could retire at the age of 43 too if she had used proportional retirement if she had started working at the age of 18 (GIAMBIAGI; BEYOND; 2000).

The factors listed above, added to the increase in the Brazilian population, considerably impacted social security support, because, for social security accounts to be balanced, the number of workers performing paid activities must be greater than the number of social security beneficiaries.

It is possible to observe that the expenses that the Government has on the retirement of workers are proportional to the increase in the life expectancy of the population. The higher the life expectancy of the population, the greater the number of elderly and, consequently, the greater the number of people receiving social security benefits.

On the aging of the population, Lira (2017) brings important data in his master's thesis:

Considering the population as a whole, the elderly population went from 5.61% of the total in 2000 to 6.78% in 2010, representing an increase of 36.32%. In the same time interval, the population under 65 years grew by only 11.31%. Brazil, therefore, despite being a relatively young country, ages rapidly, especially the female population. IBGE projections show that in 2050, the elderly male population will represent 20.35% of men; female, 24.84% of women; the country's elderly population, 22.65% of the total. A recent class study (ECLAC, 2017) analyzes the aging index of 39 countries in Latin America and the Caribbean in 2017, 2030, 2050, 2070, 2090 and 2100. The aging index is defined by the ratio between the population aged 60 years or older over the population up to 15 years of age. This index assesses the country's ability to re-re-re-enter the economically active population for the support of the elderly population since in the interval of a generation the youngest population extract (less than 15 years) will be active and those who

were active will become part of the inactive population. The higher the aging rate, the lower the spare capacity of this population.

Another preponderant factor is associated with the fertility rate because it is the young population responsible for working and financing the inactive. According to IBGE data, this fertility rate has been gradually falling; in the 1950s, this rate was more than 6 children per woman, in 2020 this rate was 1.76 children per woman (BRASIL, 2021).

These factors began to be felt by social security in Brazil as soon as the changes brought about by the 1988 Constitution came into force. After 30 years, numerous reforms have been instituted to make social security sustainable, some considerations about these changes will be woven into the next topic.

The Beginning of Social Security Reforms Rias

Ten years after the promulgation of the Citizen Constitution and with the need to continue the process of monetary stabilization that had begun in Brazil with the Real Plan in 1994, some changes were imminent. To balance the tax accounts, some measures were contemplated, including "the untying of constitutional revenues and changes in the tax, administrative and social security areas" (ALMEIDA; 2003).

Moreover, more than 30 years after the promulgation of the Federal Constitution of 1988, seven reforms were necessary to adapt pension schemes to the economic reality of Brazil. This topic will seek to address the main changes brought by each of these constitutional amendments, focusing on the General Social Security System (RGPS).

The first changes

The first social security change occurred in the government of Itamar Franco, through Constitutional Amendment No. 3, of March 17, 1993, directed to public servants. This amendment established that the pensions and pensions of these employees would be funded with contributions from employees and with resources from the Union (BRASIL, 1993).

After came the second change, it has already reached the RGPS, and, as Almeida (2003) reports the Constitutional Amendment No. 20, of 1998, approved after three years of discussion, chose to maintain the public allocation regimes, "differentiated according to workers in general, civil servants and the military, providing adjustments with restrictive effects to the granting of early retirements".

The main points brought by EC No. 20/98 were: the term "contribution time" was adopted in place of the concept "service time"; proportional retirement and special retirement for university professors were extinguished; the rule of calculating the value of benefits has been deleted from the constitutional text; regarding age, the requirement of 48 years was imposed for women and 53 years for men, as a transition rule for those who were close to retirement proportionally, in addition to having to meet an additional time of 40% applied to what was missing, in December 1998 (BRASIL, 1998).

It is notorious that Constitutional Amendment No. 20 promoted changes of paramount importance in the RGPS, it can be highlighted that the withdrawal of the constitutional provision of the form of calculation of benefits allowed "to calculate them by the average of the 80% higher contribution salaries of the entire contribution period of the insured", said Amendment also institutes the social security factor, which introduced some variables for the calculation of the benefit as "the age at the time of retirement, the survival expectancy and the contribution time" (GUERZONI FILHO, 2004).

These changes reported above were brought in the government of President Fernando Henrique Cardoso, and after 5 years, now under the government of Luiz Inácio Lula da Silva, constitutional amendment no. 41, 2003, is promulgated in the National Congress. Even though the social security regime of public servants was the central objective, EC 41/2003 promoted two changes in the RGPS: it changed the limit of the contribution salary and the benefit salary, and should be adjusted in a way that preserved, permanently, its real value; and, the second change in the RGPS was the provision of a special system, provided by law, of social security inclusion for low-income workers, "guaranteeing them access to benefits of a minimum wage, except retirement for contribution time" (GUERZONI FILHO, 2004).

Not long after, new rules were introduced through Constitutional Amendment No. 47 of December 28, 2005. This amendment brought the provision for a system of social security coverage, with reduced contributions and needs, to benefit housewives (without income) and low-income workers; such conditions would be specified by law. With such changes, these people would be included as insured (INSS), entitled to receive a minimum wage in case of retirement, paying smaller contributions. The new amendment also establishes its criteria for the retirement of people with physical disabilities (BRASIL, 2005).

Already, in the exercise of Dilma Rousseff administration, two more changes occurred: the first through Constitutional Amendment No. 70, of March 29, 2012, directed only to public servants and aimed at reviewing their disability pensions and the second, also aimed at public servants, through Amendment No. 88, of May 7, 2015, who changed the age for compulsory retirement from 70 to 75 years (CRUMBS, 2018).

After a period of 7 years, under The Government of Jair Messias Bolsonaro, a Constitutional Amendment is promulgated that significantly reformed the general social security system.

The 2019 Social Security Reform

Promulgated by the National Congress on November 12, 2019, Constitutional Amendment No. 103 entered into force on November 13, 2019. New rules were instituted, both for the insured of the General Social Security System (RGPS) and for those of the Social Security System Itself (RPPS). It can be said that the last reform restructured social security in Brazil in a "historical" way, generating, in 10 years, an economy of about R\$ 800 billion to the coffers of the Union, which will be treated in the next topic (BRASIL, 2019).

EC No. 103/2019 has brought numerous modifications to the granting of several benefits, and for this work, it is worth detailing some levels of the RGPS that were:

- 1. Contribution time and Minimum age:** the general rule of retirement started to require 62 years of age and 15 years of contribution for women and, 65 years of age and 20 years of contribution for men. It should be noted that for men affiliated with the RGPS before the reform comes into force, the minimum contribution time will remain at 15 years. Also, rural workers maintained 15 years of contribution time and a minimum age of 55 years for women and 60 years for men.

Different rules were provided for some professional categories. Like teachers, the reform has established that it will take 25 years of contribution and minimum age of 57 years for women and 60 years for men. This rule will apply only to teachers who prove to have exercised, exclusively, teaching in early childhood education, elementary school or high school.

- 2. Calculation of benefit:** the amount of retirement will be an average of 60% of the entire period contributed by the worker to social security, calculated from July 1994. (Previously, only the 80% higher contributions for the same period were considered. Each year the most contributed to the pension, in addition to the minimum required, will be added 2% to 60%, up to the limit of 100%. This means that for a woman to be entitled to 100% of the average contributions, she must make pension contributions for 35 years and men for 40 years. It is important to consider that the value of the benefit cannot be lower than the minimum wage or exceed the RGPS ceiling.
- 3. Three of them. Rates:** There was an increase in the rates, which will become progressive and was established as follows: those who earn up to a minimum wage will contribute 7.5%; between a minimum wage and R\$ 2,000 reais will contribute 9%; those who earn between R\$ 2,000 and R\$ 3,000 reais will contribute 12% and, who earns between R\$ 3,000 reais and the RGPS ceiling will contribute 14%.
- 4. Four, four, four. Death pension:** the dependent insured person entitled to this benefit will receive a value of 50%, from the average of the entire contribution period, if, upon death, the insured was still working and contributing to the pension and, if the deceased insured is already retired, the benefit will be 50% of the value of his retirement. In both cases, the value of 10% will be increased for each dependent, if any, up to the 100% limit. In the case of dependents with severe disabilities or invalids, the amount

of the death pension will be 100% of the retirement amount, without exceeding the ceiling.

5. **Five, five of them. Benefit Accrue:** When the law allows to accumulation of two benefits, for example, a retirement and a death pension, 100% of the benefit of higher value and a percentage of the sum of the other benefits will be paid. This percentage will range from 10% to 60%, depending on the value of the benefit. In cases where the two benefits are one minimum wage, nothing will change.

Moreover, to compensate those who were about to retire, some transitional rules were inserted, but even with such rules, which will not be exposed here, thousands of Brazilians have seen their eminent retirement frustrated. On the other hand, the government was able to envision an economy of millions of reais, which will be analyzed below, from the perspective of the Economic Analysis of Law.

Economic Analysis of The Law And The New Pension

A theme that does not go unnoticed in academia, the Economic Analysis of Law arises, according to Freitas and Vita (2019), in 1960, through the microeconomics studies of the British economist Ronald Harry Coase, and as Alvarez (2006) adds, is consolidated in 1973 with the publication entitled "Economic Analysis of Law" by Richard Posner, where he studies the American legal system.

Richard Posner's work spread the Economic Analysis of Law and served as a manual that consolidated theories, serving as a guide for Chicago students. In this work, the author uses economics to create an explanatory theory of legal institutes. However, before entering into the concept of AED, it is important to be minded how Posner understands the law, Gamba (2012) brings the following analysis: "Posner places the right as the medium adapted to an end. That is the decision according to the case based on the best use of the law, using, for this, the Economic Analysis of Law, thus applying what it calls pragmatism".

Under Heinen's analysis (2014), Posner's pragmatism is a philosophy of action and improvement, which nurtures a belief in the possibility of achieving progress through calculated human action. This philosophy values scientific theories when they can act as tools to explain, predict and, through technology, control and understand the physical and social environment. It is precisely this valorization of experimental science that opens the door to the economy, which could collaborate, especially, through the elaboration of models of behavior that help in the predictability and control of human actions.

From this point of view, it is possible to indemnify that the Economic Analysis of Law is characterized by the application of economic theory in the explanation of the law. Freitas and Vita (2019) define the theme as a theory that aims to support "the process of creation, interpretation and application of legal norms and relationships, to better understand its effectiveness in the legal world, especially in the socioeconomic context". Its fundamental objectives would be to provide "aerodynamic, balance and predictability in legal relations" efficiency. The AED focuses on a consequential perspective of law, focusing more on the effective outcome of a decision, than "properly on the analysis of the foundation that gave it an opportunity, whether fair or unfair".

Following this same line of thought, the economic analysis of law can be defined as a methodology strongly influenced by philosophical pragmatism and consequential logic (which already exists in the previous schools of Bentham utilitarianism and American legal realism), so the focus of the research is no longer the investigation of causative facts, but the result to be obtained and the means necessary to achieve it. More importantly, experience is valued and dogma and legal formalism are rejected. Based on individual rationality, using economic theory and econometric techniques, legal economic analysis strives to maximize wealth (allocate resources as efficiently as possible) and predict the impact of the law on the economy (TEIXEIRA; SINAY; BORBA; 2014).

Depending on the concepts presented above, it is possible to understand why the analysis of law is important for economics, Fux and Bodart (2019) emphasize that all determination imposed by the sources of law influence how individuals behave in the search for their interests, and, in the case of the reforms presented, it remains unequivocal the government's behavior in defending the interest of the country's economy and, the law that instituted the reform significantly impacted this economy, even if it had to have modified the rights of citizens insured by social security.

It is important to emphasize that the social security deficit in 2018 was R\$ 196 billion reais; while The RGPS raised R\$ 319 billion, it spent R\$ 587 billion reais. According to projections made in 2019, these deficits would increase considerably, therefore, there was no other way to balance public accounts than by considerable reform (AFONSO; OAK, 2021).

The reforms are of paramount importance for social security systems, as they need to adapt to the economic and demographic characteristics of the country in question. Brazil is not an exception, between 2009 and 2015, all OECD (Organization for Economic Cooperation and Development) countries have undertaken some kind of reform. In a general aspect, such changes occur due to the aging process of the population, originating in the reduction, not synchronized, of mortality and fertility rates, with effects that extend for decades. "For this reason, there is an inversion in the age pyramid, with the increase in the upper part, formed by the elderly and reduction in the intermediate (economically active population) and lower, formed by the young" (AFONSO; OAK, 2021).

Thus, based on what has already been said above, and, since the economic analysis of the law strives to maximize wealth, to distribute resources as efficiently as possible, the economic data brought by the 2019 pension reform were considerable.

According to the Ministry of Economy, the amount saved with pension reform, with other actions taken by the government, will be R\$ 1.236 trillion over ten years, for the public accounts of the Union. The changes that occurred in the RGPS will produce a greater impact, contributing approximately R\$ 807.9 billion in the period. The General Regime accounts for the largest share of the economy, as it has more insured (71.3 million people), while the RPPS has 1.4 million people and will generate savings of R\$ 224.5 billion (BRASIL, 2020).

Also, a technical note released by the Secretariat of Economic Policy of the Ministry of Economy (SPE/ME) noted that the "implied interest rate on central government net debt fell from 43.4% per year at the beginning of 2016 to 8.9% per year in December 2020"; much of this reduction is based on the results of the constitutional amendments of the Pension Reform (EC No. 103/2019) and the Spending Ceiling (EC No. 95/2016).

If the implied interest rate on the debt had remained at the January 2016 level, this debt would have reached r\$ 5.28 trillion in December 2020 – a difference of R\$ 1.63 trillion from the level observed at the end of last year. Without the Spending Ceiling and the Pension Reform, the general government's net public debt stock would be R\$ 4.55 trillion today – a difference of R\$ 900 billion from the amount observed in 2020 (R\$ 3.65 trillion in December). These savings of R\$ 900 billion, obtained over 50 months – from November 2016 to December 2020 – are equivalent to approximately 12.16% of Brazil's annual Gross Domestic Product (GDP), and also 28.12 times the annual expenditure with the Bolsa Família program, as highlighted by the SPE. According to the Secretariat, such a fiscal economy could finance almost seven programs of the magnitude of Bolsa Família over 50 months and also pay an Emergency Aid of R\$ 600 per month, for 50 months, for 30.1 million Brazilians (BRAZIL, 2021).

Finally, the results of the study prepared by Afonso and Carvalho (2021), indicate that the Deficit of the RGPS should be relatively stagnant for the next 15 years, beginning to grow after this period, however, with "much lower rates than would happen if the reform was not done". It was possible to realize that, even with the economy generated, the reform will not yet eliminate the deficit, but will make it less unsustainable, allowing the government better conditions to "equat the imbalance in public accounts".

IV. Discussion and Conclusion

The present work addressed the various social security reforms that occurred after the promulgation of the Federal Constitution of 1988, which instituted Social Security, of which Social Security is part. Predicting only social protection, this constitution did not consider factors that could harm the stability of the social security system, such as the fall in the birth rate and the life expectancy of its population.

A factor that predominantly impacts the functioning of Social Security is associated with the fertility rate because it is the young population responsible for working and financing the inactive. Factors such as this began to be felt by social security in Brazil as soon as the changes brought about by the 1988 Constitution came into force, thus, after 30 years, numerous reforms were instituted to make social security sustainable for generations to come.

The most significant pension reform occurred on November 12, 2019, when new rules were instituted, both for the insured of the General Social Security System (RGPS) and for those of the Social Security System Itself (RPPS). It can be said that the last reform restructured social security in Brazil in a "historical" way, generating, in 10 years, an estimated savings of about R\$ 800 billion to the Union's coffers.

The economic analysis of law, as seen above, is a theory that aims to support the process of creation, interpretation and application of legal norms and relationships, to better understand its effectiveness in the legal world, especially in the socioeconomic context. The focus of this theory is no longer the investigation of causation facts, but the result to be obtained and the means necessary to achieve it, thus, the legal economic analysis strives to maximize wealth, by as many as possible as constantly as possible, thus predicting the impact of the law on the economy.

In the case of the reforms presented, especially the last of 2019, it became clear the adoption of the theory of economic analysis of law, where legislators chose to defend the interest of the country's economy, even if it was necessary to withdraw some rights of its citizens because the focus of this theory focuses more on the effective outcome of a decision than in the analysis of the plea that gave him an opportunity, whether fair or unfair.

Although many changes brought by the New Social Security may be considered unfair, some of which are the targets of unconstitutionality processes, the fact is that without it, in the not-too-distant future, Social Security would collapse.

References

- [1]. AFONSO, Luís Eduardo; CARVALHO, João Vinícius de França. Show do trilhão no RGPS? Quantificando os aspectos fiscais e distributivos da reformada previdência do governo Bolsonaro. *Revista Brasileira de Economia*, Rio de Janeiro, v. 75, ed. 2, p. 1-20, abr-jun 2021. DOI 10.5935/0034-7140.202100??. Disponível em: <https://bibliotecadigital.fgv.br/ojs/index.php/rbe/article/view/80203/80144>. Acesso em: 29 jan. 2022.
- [2]. ALMEIDA, Sandra Cristina Filgueiras de. HISTÓRICO DE REFORMAS: mudanças realizadas na previdência social. Brasília: Câmara dos Deputados, 2003. 10 p. Disponível em: <https://www.dca.ufm.br/~ricardo/files/camara-historico-de-reformas.pdf>. Acesso em: 10 dez. 2021.
- [3]. ALVAREZ, Alejandro Bugallo. Análise econômica do direito: contribuições e desmistificações. *Direito, Estado e Sociedade*, Rio de Janeiro, v. 29, n. 9, p. 49-68, jul. 2009. Semestral. Disponível em: http://direitostadosociedade.jur.puc-rio.br/media/Bugallo_n29.pdf. Acesso em: 02 set. 2020
- [4]. BRASIL. Agência Câmara de Notícias. Câmara dos Deputados. Câmara aprova mais mudanças na Previdência em 2005. 2005. Disponível em: <https://www.camara.leg.br/noticias/78704-camara-aprova-mais-mudancas-na-previdencia-em-2005/>. Acesso em: 25 jan. 2022.
- [5]. BRASIL. Constituição (1988). Constituição Federal de 05 de outubro de 1988. Constituição da República Federativa do Brasil de 1988. Brasília, DF, 05 out. 1988. Disponível em: http://www.planalto.gov.br/ccivil_03/constituicao/constituicaocompilado.htm. Acesso em: 11 nov. 2021.
- [6]. BRASIL. Emenda Constitucional nº 3, de 17 de março de 1993. Altera os arts. 40, 42, 102, 103, 155, 156, 160, 167 da Constituição Federal. Brasília, DF, 17 mar. 1993. Disponível em: https://www.planalto.gov.br/ccivil_03/constituicao/emendas/emc/emc03.htm. Acesso em: 25 jan. 2022.
- [7]. BRASIL. Emenda Constitucional nº 20, de 15 de dezembro de 1998. Modifica o sistema de previdência social, estabelece normas de transição e dá outras providências. As Mesas da Câmara dos Deputados e do Senado Federal, nos termos do § 3º do art. 60 da Constituição Federal, promulgam a seguinte emenda ao texto constitucional. Brasília, DF, 15 dez. 1998. Disponível em: http://www.planalto.gov.br/ccivil_03/constituicao/emendas/emc/emc20.htm. Acesso em: 25 jan. 2022.
- [8]. BRASIL. Emenda Constitucional nº 103, de 12 de novembro de 2019. Altera o sistema de previdência social e estabelece regras de transição e disposições transitórias. Brasília, DF, 12 nov. 2019. Disponível em: http://www.planalto.gov.br/ccivil_03/constituicao/emendas/emc/emc103.htm. Acesso em: 26 jan. 2022.
- [9]. BRASIL. IBGE - Instituto Brasileiro de Geografia e Estatística. Painel de Indicadores. 2021. Disponível em: <https://www.ibge.gov.br/indicadores.html>. Acesso em: 18 nov. 2021.
- [10]. BRASIL. Instituto Nacional do Seguro Social. Ministério do Trabalho e Previdência. Confirma as principais mudanças da Nova Previdência. 2019a. Disponível em: <https://www.gov.br/inss/pt-br/assuntos/noticias/confira-as-principais-mudancas-da-nova-previdencia>. Acesso em: 26 jan. 2022.
- [11]. BRASIL. Lei nº 8.213, de 24 de julho de 1991. Dispõe sobre os Planos de Benefícios da Previdência Social e dá outras providências. Brasília, DF, 24 jul. 1991. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/8213compilado.htm. Acesso em: 11 nov. 2021.
- [12]. BRASIL. Ministério do Trabalho e Previdência. Apresentação de dados detalhados aumenta a transparência da proposta da Nova Previdência. 2020. Disponível em: <https://www.gov.br/trabalho-e-previdencia/pt-br/assuntos/assuntos-previdencia/noticias/previdencia/institucional/apresentacao-de-dados-detalhados-aumenta-a-transparencia-da-proposta-da-nova-previdencia>. Acesso em: 29 jan. 2022.

- [13]. BRASIL. Ministério da Economia. Teto de Gastos e Nova Previdência geraram economia de R\$ 900 bilhões com a dívida pública. 2021. Disponível em: <https://www.gov.br/economia/pt-br/assuntos/noticias/2021/abril/teto-de-gastos-e-nova-previdencia-geraram-economia-de-r-900-bilhoes-com-a-divida-publica>. Acesso em: 29 jan. 2022.
- [14]. BELTRÃO, KaizôIwakami; CARNEIRO, Luiz Augusto. Projeções de Impacto do Envelhecimento Populacional sobre a previdência e a assistência pública. 2012. Disponível em: <https://www.iess.org.br/sites/default/files/2021-04/ES01-PROJE%C3%87%C3%95ES%20DE%20IMPACTO%20DO%20ENVELHECIMENTO%20POPULACIONAL%20SOBRE%20A%20PREVID%C3%8ANCIA%20E%20A%20ASSIST%C3%8ANCIA%20P%C3%9ABLICA.pdf>. Acesso em: 18 nov. 2021.
- [15]. BERTUSSI, Luís Antônio Sleimann; TEJADA, César A. O. CONCEITO, ESTRUTURA E EVOLUÇÃO DA PREVIDÊNCIA SOCIAL NO BRASIL. Teoria e Evidência Econômica, Passo Fundo, v. 11, n. 20, p. 27-55, maio 2003. Disponível em: http://cepeac.upf.br/download/rev_n20_2003_art2.pdf. Acesso em: 11 nov. 2021.
- [16]. FREITAS, Matheus Silva de; VITA, Jonathan Barros. UMA INTRODUÇÃO À ANÁLISE ECONÔMICA (AED) DAS ATIVIDADES NOTARIAIS E REGISTRASIS. Revista de Direito Notarial, São Paulo, v. 1, n. 08, p. 01-28, jan. 2019. Semestral. Disponível em: <http://rdn.cnbsp.org.br/index.php/direitonotarial/article/view/3/1>. Acesso em: 02 dez. 2021.
- [17]. FUX, Luiz; BODART, Bruno. Processo Civil e Análise Econômica. Rio de Janeiro: Forense, 2019. 200 p.
- [18]. GAMBA, Marcelo Schmitt. A ANÁLISE ECONÔMICA DO DIREITO E A CRISE DO PODER JUDICIÁRIO: UMA LEITURA CRÍTICA A PARTIR DE RICHARD A. POSNER. 2012. 151 f. Dissertação (Mestrado) - Curso de Direito, Universidade Federal de Santa Catarina, Florianópolis, 2012. Disponível em: <https://repositorio.ufsc.br/xmlui/bitstream/handle/123456789/96331/301984.pdf?sequence=1&isAllowed=y>. Acesso em: 31 jan. 2022.
- [19]. GUERZONI FILHO, Gilberto. EFICIÊNCIA POLÍTICA, CONSISTÊNCIA ATUARIAL E AJUSTE FISCAL: COMENTÁRIOS SOBRE A EMENDA CONSTITUCIONAL Nº 41, DE 2003. Brasília: Colegi Estudos, 2004. 48 p. Disponível em: <https://www12.senado.leg.br/publicacoes/estudos-legislativos/tipos-de-estudos/textos-para-discussao/td-2-eficiencia-politica-consistencia-atuarial-e-ajuste-fiscal-comentarios-sobre-a-emenda-constitucional-no-41-de-2003>. Acesso em: 25 jan. 2022.
- [20]. HEINEN, Luana Renostro. A Análise Econômica do Direito de Richard Posner e os pressupostos irrealistas da economia neoclássica. In: POMPEU, Gina Vidal Marcílio et al (org.). Direito e economia I. Florianópolis: Conpedi, 2014. p. 311-330. Disponível em: <http://www.publicadireito.com.br/artigos/?cod=991c0955da231335>. Acesso em: 20 jan. 2022.
- [21]. HORVATH JUNIOR, Miguel. Direito previdenciário. Barueri: Manole, 2011. 154 p. Coleção sucesso concursos públicos e OAB/José Roberto Neves Amorim (coordenador).
- [22]. LIRA, Monique Libardi. A APLICAÇÃO DA ANÁLISE ECONÔMICA DO DIREITO SOBRE A PREVIDÊNCIA SOCIAL BRASILEIRA. 2017. 139 f. Dissertação (Mestrado) - Curso de Direito, Faculdade de Direito de Vitória - Fdv, Vitória, 2017. Disponível em: <http://191.252.194.60:8080/bitstream/fdv/125/1/Monique%20Libardi%20Lira.pdf> Acesso em: 18 nov. 2021.
- [23]. MÂNICA, Fernando Borges. Racionalidade econômica e racionalidade jurídica na Constituição de 1988. Revista de Direito Administrativo e Constitucional. Belo Horizonte, n.32, p. 121-132, abr./jun. 2008. Trimestral. Disponível em: <http://www.revistaaec.com/index.php/revistaaec/article/view/509/493>. Acesso em 05 dez. 2021.
- [24]. MIGALHAS (Brasil). Previdência Social já sofreu seis alterações desde a Constituição de 88. 2018. Disponível em: <https://www.migalhas.com.br/quentes/290850/previdencia-social-ja-sofreu-seis-alteracoes-desde-a-constituicao-de-88>. Acesso em: 25 jan. 2022.
- [25]. PIOVAN, Thaís Inácio. PROJEÇÕES E PERSPECTIVAS PARA O REGIME GERAL DE PREVIDÊNCIA SOCIAL. 2021. 63 f. TCC (Graduação) - Curso de Ciências Atuariais, Unifesp, Osasco, 2021. Disponível em: https://repositorio.unifesp.br/bitstream/handle/11600/60349/TCC_Tha%c3%ads%20In%c3%a1cio%20Piovan_92.414.pdf?sequence=7&isAllowed=y. Acesso em: 11 nov. 2021.
- [26]. SILVA, Mauri Antônio da. Análise crítica da proposta de reforma da previdência social no Brasil entre os anos 2016 e 2018. Serviço Social & Sociedade, [S.L.], n. 135, p. 213-230, ago. 2019. FapUNIFESP (SciELO). <http://dx.doi.org/10.1590/0101-6628.175>. Disponível em: <https://www.scielo.br/j/ssoc/a/jyZcd4kYKwpSNCL6mSRxc9j/?lang=pt>. Acesso em: 11 nov. 2021.

- [27]. TEIXEIRA, Pedro Freitas; SINAY, Rafael; BORBA, Rodrigo Rabelo Tavares. A análise econômica do direito na axiologia constitucional. Revista do Bndes, Rio de Janeiro, n. 42, p. 181-222, dez. 2014. Mensal. Disponível em:
<https://web.bndes.gov.br/bib/jspui/bitstream/1408/3685/2/A%20an%C3%A1lise%20econ%C3%B4mica%20do>

João Hagenbeck Parizzi. "The History of Social Security Reform after the Federal Constitution of 1988 - An Approach to Economic Legal Analysis." *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 28(2), 2023, pp. 32-41.