

# CHALLENGES AND CHANGES IN SOCIAL SECURITY IN BRAZIL

## DESAFIOS E MUDANÇAS NA PREVIDÊNCIA SOCIAL DO BRASIL

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### **Abstract**

This article analyzed the inspection and collection of the social contributions of the Union destined to the financing of Social Security given the hypothesis of deficit in this system. It was therefore concluded that there is no deficit in Social Security, but a diversion of public money to cover other expenses not related to Social Security, social assistance, and health. The scientific article is a literature review, deductive method, qualitative and descriptive research.

**Keywords:** Social Security; Social assistance; Health.

### **Resumo**

Este artigo analisou a fiscalização e arrecadação das contribuições sociais da União destinadas ao financiamento da Seguridade Social dada a hipótese de déficit neste sistema. Concluiu-se, portanto, que não existe déficit na Seguridade Social, e sim um desvio do dinheiro público para cobrir outros gastos não relacionados com a previdência social, assistência social e a saúde. O artigo científico é de revisão bibliográfica, método dedutivo, pesquisa qualitativa e descritiva.

**Palavras-chave:** Previdência Social; Assistência Social; Saúde.

**Summary:** 1. Introduction; 2. Social Security Concept; 3. Brief History of Social Security in Brazil; 4. The Fiscal Policy of Social Security; 5. Final Considerations; 6. References.

## 1 INTRODUCTION

The debate about Social Security in Brazil has been great because, currently, this system has a large deficit. This deficit situation has been growing rapidly in recent years and could become larger soon if nothing is done.

Specialists working both in law and in the economic and social areas say that the situation of public finances presents itself as one of the great challenges related to the sustained growth of the Brazilian economy and the deficit of Social Security has given a significant contribution to the magnitude of the fiscal imbalance.

Based on this situation, pension reform presents itself as an objective relentlessly pursued by the various government sectors over the last few years.

Although several amendments to the constitutional text have already been proposed, as well as to the infra-constitutional legislation, responsible for governing this matter, the social security reform remains an unresolved issue that urgently needs attention, in order not to lose the total control over the country's economy.

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In this way, the discourse on the need for Social Security reform has received broad support from the press, as it involves several reflections on this scenario, because if on the one hand we have the aging of the population, together with a huge financial, political and social welfare, which due to the high number of unemployment, considerably reduces the pyramid of contributors to Social Security, on the other hand, we have by the government subtraction of tax benefits, exemptions on the payroll, billion-dollar debts by companies for the Social Security as well as the decoupling of revenue from the sources of funding of the Social Security system, which would serve to cover these artificial deficits and which are used for other purposes, thereby weakening the social protection system, almost blaming life expectancy of the population.

Based on this situation, we find in Teixeira's reflections<sup>2</sup> that such a condition arises as a way of manipulating an entire society, politicians, intellectuals, the press in general and other people who have no knowledge about the subject, so that they proclaim the need for a reform in Social Security without even understanding what it is.

Thus, the national scenario ends up exposing, in a general way, the importance of this situation in order that without this condition there will be no resumption of economic growth, which is associated with a pessimistic interpretation about the future of Social Security in the country, in a system of ideas based on the perspective that there is sovereignty in the market and in individual interests over collective needs, as well as the need for state intervention in order to have greater efficiency in economic growth, in a fiscal and actuarial balance, which involves responsibility in the management of public policies and essential mechanisms in the face of establishing economic stability.

Alongside this situation, there is a parallel debate in view of the situation of a possible significant surplus in Social Security and that there is no use in cutting rights and expanding contributions, so it is important to make the system more universal, inclusive, and democratic.

In this line of understanding, where the social protection mechanisms defended here, are based on collection principles, where the whole society participates, companies, employees and government through social contributions, and which in turn make the distribution through the benefits system, and given the important role of the state in ensuring the management of the capital system, it is not admissible to discuss an anti-social bias on the grounds that without the Social Security reform it will lead to an imbalance in public accounts.

According to this understanding, it can be said that Social Security, in its objective dimension, is understood as an institutional guarantee, since it overcomes the individualistic solitude of the classical conception of fundamental rights, in the words of Bonavides<sup>3</sup>, since the directives of the social security system and its very

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<sup>2</sup> TEIXEIRA, Aloísio, Prefácio, In: ARAÚJO, Odília Sousa de, *A Reforma da Previdência Social Brasileira no Contexto das Reformas do Estado*, 1988 a 1998, Natal, Editora da UFRN, 2004, Disponível em: <<https://ambitojuridico.com.br/cadernos/direito-previdenciario/o-falacioso-deficit-previdenciario-e-a-pec-287-2016/>>. Visualizado em: 29/04/2022.

<sup>3</sup> BONAVIDES, Paulo, *Curso de Direito Constitucional*, 8. Ed, Editora São Paulo, Malheiros, 1999.

existence are also protected from changes by the ordinary legislator, in a more comprehensive and effective reality in the valuation of the human person.

## 2 SOCIAL SECURITY CONCEPT

Social Security encompasses an integrated set of activities on the initiative of society and the government, with the objective of ensuring the guarantee of the relevant rights to health for all, social assistance to the needy as well as retirements and pensions, as provided for in article 194 of the Federal Constitution from 1988.

Supported by income from contributions defined by article 195, retirements and pensions will be organized in the form of a general regime (RGPS) in accordance with article 201 of the Federal Constitution, of a contributory nature and mandatory membership, observing the criteria that preserve the financial and actuarial balance, and will, under the terms of the law, cover the events of illness, disability, death, old age, maternity protection, protection for the worker in a situation of involuntary unemployment, family salary, reclusion assistance and death pension for his dependents.

The retirements and pensions financing model provided for in the Federal Constitution is based on the contributory system, even though the Public Power participates in the Social Security budget, through the delivery of resources from the Union budget and other entities of the Federation for coverage of possible shortcomings in the model, as well as to deal with their own social charges, human and material resources employed<sup>4</sup>.

In this sense, in the field dedicated to social order, the Brazilian constituent addressed numerous issues, such as Social Security (articles 194 to 204), education, culture and sports (articles 205 to 217), science and technology (articles 218 and 219), social communication (articles 220 to 224), the environment (article 225), the family, children, adolescents and the elderly (articles 226 to 230) and the Indians (articles 231 and 232).

In its general provision (article 193), it states that the social order is based on work, with the objective of well-being and social justice. Given the specific structure of its general provision, the Constitution structures Social Security, with its own budget, understood as an integrated set of actions initiated by the government and society, aiming to ensure the rights related to health, social assistance, and retirements and pensions of the article 194. In this sense, the Brazilian Social Security organization responds to the following objectives:

- I. universality of coverage and service.*
- II. uniformity and equivalence of benefits and services to urban and rural populations.*
- III. selectivity and distributivity in the provision of benefits and services.*
- IV. irreducibility of the value of benefits.*
- V. equity in the form of participation in costing.*

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<sup>4</sup> CASTRO, Carlos Alberto Pereira de; LAZZARI, João Batista, *Direito Previdenciário*, Rio de Janeiro, Editora Forense, 2016, p. 69.

*VI. diversity of the financing base, identifying, in specific accounting items for each area, the income and expenses linked to health, Social Security and social assistance actions, preserving the contributory nature of Social Security.*

*VII. democratic and decentralized character of the administration, through quadruple management, with the participation of workers, employees, retirees, and the Government in collegiate bodies.*

The retirements and pensions will be organized in the form of a general scheme, of a contributory nature and of mandatory affiliation, observing the criteria that preserve the financial and actuarial balance<sup>5</sup>. Therefore, except for retirements and pensions, which is structured on a model of remuneration for its participants, social assistance and health constitute a subjective public right of every citizen.

The retirements and pensions are governed by the following principles:

*I. coverage of temporary or permanent incapacity for work and old age.*

*II. maternity protection, especially for pregnant women.*

*III. protection for workers in involuntary unemployment.*

*IV. family allowance and reclusion allowance for dependents of low-income insured persons.*

*V. pension for death of the insured, man, or woman, to the spouse or partner and dependents, subject to the provisions of § 2.*

*§ 2. No benefit that replaces the insured's contribution salary or income from work will have a monthly value lower than the minimum wage.*

According to Fábio Zambitte Ibrahim, Social Security is a more advanced protective technique than the old social protection system, due to the greater coverage of protection and the flexibility of the individual correspondence between contribution and benefit<sup>6</sup>.

Thus, Social Security is constitutionally structured as the main instrument of social protection, alongside which the State intends to offer health and social assistance conditions and retirements and pensions.

About health, this constitutes a right of society and a duty of the State, guaranteed through social and economic policies that allow the reduction of the risk of diseases and equal access to its actions and services for its promotion, protection, and recovery (article 196 of CF/88).

Public health actions and services are part of a regionalized and hierarchical network and constitute a single system, governed by the following guidelines:

*I – decentralization, with single direction in each sphere of government.*

*II – comprehensive care, with priority for preventive activities, without prejudice to care services.*

*III – community participation.*

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<sup>5</sup> Definição dada pelo art. 201 da Constituição da República Federativa do Brasil de 1988.

<sup>6</sup> IBRAHIM, Fábio Zambitte, *Curso de Direito Previdenciário*, 22 ed. revista atualizada, Niterói, Impetus, 2016, p. 27.

Health is a right of all and a duty of the State, guaranteed through social and economic policies aimed at reducing the risk of disease and other diseases and at universal and equal access to actions and services for its promotion, protection, and recovery. In this sense, public policies in health must provide access to all citizens, promoting the reduction of inequalities and not being able to create distinctions<sup>7</sup>.

Currently, health has a totally different organization from Social Security. With the extinction of the National Institute of Medical Assistance of Social Security (INAMPS), actions in this area became the direct responsibility of the Ministry of Health, through the Unified Health System (SUS)<sup>8</sup>.

The Unified Health System (SUS) is financed with resources from the Social Security Budget (OSS), the Union, the States, the Federal District and the Municipalities, in addition to other sources according to the estimated revenue to meet its purposes in a proposal prepared by the national management with the participation of the Social Security and Social Assistance, in compliance with the provisions of the Budget Guidelines Law described in article 31 of Law 8,880/1990.

The constituent's concern to forge a link between health and citizenship is clear, which is one of the main vectors of public policies. It should be noted that the issue of health permeates several points of the Federal Constitution. It is expressly declared a social right (article 6, *caput*) and is considered a guarantee in the field of labor relations (article 7, item XXII).

Social assistance will be provided to those who need it (Article 203 of CF/88), that is, to those who are unable to support themselves. Like health, social assistance is independent of the direct contribution of the beneficiary. The assistance requirement is the need of the assisted<sup>9</sup>.

The objectives of social assistance are the protection of the family, maternity, childhood, adolescence and old age, the protection of needy children and adolescents, the promotion of insertion in the labor market, the qualification and rehabilitation of people with disabilities and the promotion of their integration into community life and the guarantee of a monthly payment of a minimum wage to people with disabilities and the elderly who prove that they do not have the means to ensure their own subsistence or their family (article 2 of Law 8.742/1993)<sup>10</sup>.

The traditional assistance benefit is known as the Continued Benefit (BPC) established by Law No 8.742/1993 and regulated by article 203, item V, CF/88, known as the Organic Law of Social Assistance (LOAS).

The BPC is granted by the National Institute of Social Security (INSS), since it has a wide structure distributed throughout the national territory and with conditions to serve the assisted clientele, and the financing, granting and maintenance of the benefits of the continued provision competes with the Union,

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<sup>7</sup> FURLAN, BRUNA, *Sáude e Direito sem Fronteiras, Artigo Científico*, Disponível em: <<http://saudedireito.org/2014/01/29/artigo-196-da-constituicao-federal-direito-a-saude-um-direito-fundamental/>>, Visualizado em 15 maio 2018.

<sup>8</sup> IBRAHIM, Fábio Zambitte, *Curso de Direito Previdenciário*, 22 ed. revista atualizada, Niterói, Impetus, 2016, p. 8.

<sup>9</sup> IBRAHIM, Fábio Zambitte. *Curso de direito previdenciário*, 22 ed. revista atualizada, Niterói, Impetus, 2016, p. 12.

<sup>10</sup> *Ibidem*.

interpretation given by article 12, item I, of Law 8,742/1993, while article 3 of the Regulation of Benefits of Continued Provision (RBPC), approved by Decree 6.214/2007, delegates to the INSS the responsibility for operationalization.

### 3 BRIEF HISTORY OF SOCIAL SECURITY IN BRASIL

Some initiatives associated with the idea of Social Security in Brazil were already present at the time of the empire, benefiting isolated categories as in the case of employees of the Post Office, some of the existing railroads, the National Press, among others. These resulted in the creation of the so-called “Montepios”, insurance funds financed by the government, which were limited to public sector workers: military personnel, civil servants and employees of state-owned companies<sup>11</sup>.

The foundations of the Brazilian social protection system were built in the same period, with authoritarianism as one of its main features, aiming to regulate aspects concerning the organization of salaried workers in the most modern sectors of the economy, using the anticipation of some needs, to reduce the legitimacy of labor leaders in their claims. This fact results in the segmentation in the modernization process in the country that is presented to the present day, with modern industrial sectors coexisting with traditional sectors.

The first more comprehensive legal measures related to social protection in the country were the Work Accidents Law of 1919, which recognized the employer's obligation to indemnify the worker in case of accidents at work, and the Eloy Chaves Law of 1923, which established the obligation to create the first Retirement and Pension Fund (CAP) for workers in railway companies<sup>12</sup>.

In 1926, a decree extended the (CAP) model to other categories and, in 1930, there were already more than forty (CAP), with approximately eight thousand contributing workers and seven thousand pensioners.

In this period, the Retirement and Pension Institutes (IAP) were created, organized by professional categories, and which began to coexist with the initially established ones (CAP), which were structured by companies. The (IAP) covered risks related to the temporary or permanent loss of work capacity, in addition to medical assistance services in some cases. Unlike (CAP), (IAP) brought together workers from the same category and no longer by company. In addition, in the (IAP) there was the presence of the State, with its presidents being chosen by the President of the Republic. The resources of these institutes came from contributions from the government, employers, and employees. The benefits offered depended on what each institute collected, so the best quality services were provided by the institutes that brought together workers with the best salaries. In addition, in 1943, all labor legislation that was gradually elaborated was brought together in the Consolidation of Labor Laws (CLT), which included regulation of working hours, women's and minor's work, vacations, minimum wage, stability, pensions and retirements.

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<sup>11</sup> MALLOY, James, *A Política da Previdência Social no Brasil*, Rio de Janeiro, Graal, 1986, p. 48-54, In: Relatório Final\_CIPREV, Senado Federal.

<sup>12</sup> BENEVIDES, Claudia do Vale, *Um Estado de Bem Estar Social no Brasil? 2011*, Dissertação de Mestrado, Curso de Economia da Universidade Federal Fluminense, Rio de Janeiro, 2011, p. 1-98.

Thus, the social protection system that began in 1930 in Brazil, based mainly on the mediation between capital and work, was configured as a policy aimed mainly at urban workers. In other words, a social protection scheme was created with the objective of serving the organized sectors of the urban working class, based on the Social Security system.

After the time of the military dictatorship, a social protection system was established that, in theory, covered the entire population. However, as Vianna (1998) rightly put it, the public system was increasingly specializing in the precarious care of the poorest, while the private provision of well-being gained supporters among the middle class. It is in this context that Vianna (1998) says that there is a “perverse Americanization” of Brazilian social protection, which would be more evident in health, but which could be observed in almost all areas of public intervention in social life: In the United States, most of the population has access to protection through the market and the public system is restricted to a minority that revolves around one fifth of the population, while in Brazil this proportion reflects people who have access to private insurance, since the majority of the population the public system is dependent<sup>13</sup>.

From a historical perspective, the 1930s and 1980s were important for the implementation of social rights in Brazil in the face of several advances, from the structuring of the Consolidation of Labor Laws (CLT), to the creation of the Organic Law of Social Security of 1960 (LOPS), since different benefits were created during this period, such as: maternity salary, monthly annuity for the elderly and disabled, retirements and pensions as well as the inclusion of domestic employees, extension of occupational accident benefits to rural workers among others.

In this line of approach, the current social protection system emerged based on the Citizen Constitution of 1988, in which important historical transformations were introduced in the Brazilian social protection system, both in Social Security Law and in Labor Law.

However, alongside all these advances, the country also experienced a period of fraud and evasion related to precarious planning, serious administrative problems and manipulation of the Social Security and labor machinery, which had immense financial repercussions, having repercussions on Labor Reforms and Social Security Reforms that drastically remove social rights from workers, example of Constitutional Amendment 103 of November 12, 2019, which removes retirement based on contribution time (35 years for men and 30 years for women), bringing, almost as a unique alternative for most Brazilians, only retirement based on age (65 years for men and 60 years for women).

Therefore, it is necessary to recognize in the Constitution of 1988 the rescue of the promises of the Welfare State. Its foundations, objectives and principles (expressed and implicit) add to the Democratic State of Law the conditions of possibility to supply the insufficiencies of the previous constitutional stages, not yet carried out, “*represented by the need to rescue the promises of modernity, such as equality, social justice and the guarantees of fundamental human rights*” as

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<sup>13</sup> VIANNA, M.L.W., (1998), *A Americanização Perversa da Seguridade Social no Brasil*, Estratégias de bem-estar e políticas públicas, Editora Revan, IUPERJ,UCAM, Rio de Janeiro.

STRECK (2009) teaches, which requires the State to have a strong presence in various areas of political, economic and social life.

#### 4 THE FISCAL POLICY OF SOCIAL SECURITY

The constitutional model for financing the Brazilian Social Security described in article 195 of the Federal Constitution of 1988 is based on a plurality of funding sources to ensure rights related to health, social assistance, and social security. The constitutional text determines that Social Security is financed by the whole society, directly and indirectly, called social contributions of companies, employees, on the payroll, billing and profit of companies, revenue from prediction contests, as well as importers of goods and services, as well as other revenues described in article 27 of Law 8.212/1991, Social Security funding law.

One of the questionable premises of Social Security is in relation to the “pension deficit”, it is imperative to state that the General Social Security System (RGPS) has gained triple constitutional protection for its main funding sources. In addition to social security contributions, social contributions and other resources from the National Treasury as described in article 11 of the costing law are added to them.

The Union's contribution is also described in article 16 of Law 8.212/1991, which establishes the Social Security costing plan, which states that the Union's contribution is made up of additional resources from the Fiscal Budget, obligatorily established in the Annual Budget Law (LOA) in the sole paragraph of the same article states that the Union is responsible for covering any financial insufficiencies, when arising from the payment of benefits of continued provision of Social Security, in the form of (LOA)<sup>14</sup>.

Obviously, it was concluded that there is no deficit in the retirement and pension system because it is supported by a constitutional framework that in turn is supported by Social Security, which has always had a surplus.

This constitutional arrangement was inspired by the classic tripartite model, found in most developed countries, in which workers, employers and the State are equally responsible for financing public policies that integrate their national protection systems<sup>15</sup>.

According to DIEESE/ANFIP (2017)<sup>16</sup>, in 2015, the total collected by the retirement and pension system was (694) six hundred and ninety-four billion<sup>17</sup>, considering unpaid indemnities, such as exemption on payroll, and total expenses were (683) six hundred and eighty and three billion, that is, there was a surplus of (11) eleven billion.

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<sup>14</sup> Lei Federal 8.212 de 24 de Julho de 1991 que dispõe sobre a Seguridade Social.

<sup>15</sup> Previdência: reformar para excluir?, *Contribuição técnica ao debate sobre a reforma da previdência social brasileira*, Brasília, DIEESE, ANFIP, 2017, 48 p. (Documento síntese).

<sup>16</sup> Previdência: reformar para excluir?, *Contribuição técnica ao debate sobre a reforma da previdência social brasileira*, Brasília, DIEESE, ANFIP, 2017, 48 p. (Documento síntese).

<sup>17</sup> Todos valores são expressados em (R\$) Reais, moeda nacional.

In 2014, this surplus was even greater, amounting to (55) fifty-five billion, as it has been historically, but much of the media does not count<sup>18</sup>.

As of 2016, the debate on reforms in the retirement and pension system gained prominence again, a period in which Brazil began to experience a slowdown in economic growth and an increase in public debt. The social security reform (Proposal to Amend the Constitution 287 of 2016), according to the government team, would be justified by the need to control primary public spending.

As reported by ANFIP (2016)<sup>19</sup>, Social Security revenues totaled (719) seven hundred and nineteen billion and expenditures were (776) seven hundred and seventy-six billion, with a negative deficit of (56) fifty-six billion. As of 2016, the Brazilian economy began to show a negative picture, the Gross Domestic Product (GDP) fell by 3.6% and the country had the biggest recession in history, industry fell by 17%, services by 9% and trade 20%. Obviously, social security revenue was hit by this economic downturn.

As if the high increase in unemployment and informality were not enough, Social Security revenue also suffered from other incidences such as the Unlinking Union Resources (DRU).

The big problem of Brazilian Social Security is not always centered on population aging, but on the condition of diversion of resources for payments of financial expenses with interest in other areas that are not health, social assistance, and retirement and pensions, creating an artificial deficit in the social protection system.

More specifically, the Unlinking Union Resources (DRU) is understood as a way for the federal government to apply federal taxes linked by law to funds or expenses, since social contributions end up accounting for almost ninety percent of this unbound amount.

This Emergency Social Fund was created in 1994 as a way to unlink the budget in order to stabilize the country's economy after the Real Plan, and in 2000, its name was changed to Unlinking Union Resources (DRU), with a focus on enabling the management of resources for the payment of interest on the public debt, being a form of permission given to the government to apply resources that would be destined for the areas of education, health and social security in any other expenditure that is seen as a priority in the formation of primary surplus<sup>20</sup>.

This untying that was 20% was extended several times and in July 2015 the federal government sent the National Congress the Proposed Amendment to the Constitution (PEC 87 of 2015).

It is necessary to highlight that this Proposal for Amendment to the Constitution (PEC 87 of 2015), was converted into Constitutional Amendment 93 of 2016 and increases by 10% the rate of untying on income from economic and social contributions, as compensation income financial, arising from the use of mineral resources, such as water in the production of electricity and from constitutional funds, and which extends this instrument until the year 2023.

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<sup>18</sup> ROCHA, Flávia Rebecca Fernandes, MACÁRIO, Eptácio, *O Impacto da EC 95/2016 e da PEC 287/2016 para a Previdência Social Brasileira*, Revista SER Social, vol. 18, n. 39, 2017, p. 444-460.

<sup>19</sup> Análise da Seguridade Social 2016, ANFIP, Associação Nacional dos Auditores Fiscais da Receita Federal do Brasil, Fundação ANFIP de Estudos Tributários e da Seguridade Social, Brasília, ANFIP, 2017, 192 p.

<sup>20</sup> GARCIA, Maria Lúcia Teixeira, COUTO, Berenice Rojas, MARQUES, Rosa Maria, *Proteção social no Brasil e em Cuba*. Porto Alegre, EDIPUCRS, 2012.

In the years 2005 to 2015 alone, the (DRU) was responsible for subtracting (519), five hundred and nineteen billion resources from contributions to Social Security, while in the same period the Social Security numbers produced, on average (50) fifty billion in annual surplus, even considering the negative result of 2016<sup>21</sup>.

On October 26, 2017, the Final Report of the Parliamentary Commission of Inquiry of the Federal Senate (CPIPREV) was published to investigate the accounting of the retirement and pensions system<sup>22</sup>. This report gives us a broader view of building the artificial deficit of the pension system.

Another factor that contributes to the artificial deficit of Social Security, verified through documents and testimonies collected by (CPIPREV), is related to the recurring practice by companies of non-compliance with their obligations, accumulating debts that are sometimes billions<sup>23</sup>.

The other operation of subtraction of values pointed out by ANFIP in the CPIPREV, refers to the disregard of resources resulting from the financial investment of the various Social Security bodies. ANFIP states that the autarchies, foundations, and Social Security Funds have legal authorization to invest their financial balances and receive income from these investments, being able to use these resources to cover part of their charges. In Social Security, the most significant case is the Worker Support Fund (FAT), which receives funds from its investments in the National Bank for Social Development (BNDES) and other financial institutions. In 2015 alone, according to the entity, this subtraction involved (14) fourteen billion.

In the same study, ANFIP states that since 2013 the retirement and pension system has been under the effects of payroll tax relief. The exemption refers to the employer's social security contribution levied on gross revenue, with a lower rate in lieu of the levy on the payroll. Legislation requires full compensation for these losses. According to studies by ANFIP and Foundation ANFIP, the compensation transferred to the General Social Security System does not cover the losses.

According to an estimate by Brazil's Federal Revenue (RFB), the exemption from the payroll removed from Social Security between 2012 and 2016 more than (80) eighty billion<sup>24</sup>.

Regarding the accounting for the year 2019, Social Security collected (829), eight hundred and twenty-nine billion, and expenses totaled (926) nine hundred twenty-six billion. Already in the year 2020, revenue decreased considerably (796), seven hundred and ninety-six billion and expenses also increased considerably (954), nine hundred and fifty-four billion, an increase justified by the enormous

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<sup>21</sup> Análise da Seguridade Social 2016, ANFIP, Associação Nacional dos Auditores-Fiscais da Receita Federal do Brasil, Fundação ANFIP de Estudos Tributários e da Seguridade Social, Brasília, ANFIP, 2017,192 p.

<sup>22</sup> CPIPREV, *Relatório Final da CPI da Previdência*, Disponível em: < <https://www2.senado.leg.br/bdsf/item/id/539169>>, Visualizado em 29/04/2022.

<sup>23</sup> Entre os principais devedores da Previdência podemos destacar a JBS, com um passivo de R\$ 2,1 bilhões, a Associação Educacional Luterana do Brasil (R\$ 1,8 bilhão), Marfrig Global Foods (R\$ 1,1 bilhão), Caixa Econômica Federal (R\$ 1,2 bilhão), Banco do Brasil (R\$ 1,1 bilhão), entre outros.

<sup>24</sup> CPIPREV, *Relatório Final da CPI da Previdência*, Disponível em: < <https://www2.senado.leg.br/bdsf/item/id/539169>>, Visualizado em 29/04/2022.

crisis caused by COVID-19, which withdrew millions of jobs and, on the other hand, caused a high expense with unemployment insurance<sup>25</sup>.

Between 1988 and 2017, the number of benefits paid by Social Security increased by 336.23%, from 11.6 million to 34.5 million beneficiaries. According to the Brazilian Institute of Geography and Statistics (IBGE), for each Social Security beneficiary, there are, on average, 2.5 people indirectly benefited. Thus, in 2017, Social Security directly and indirectly benefited 120.5 million people, that is, 57.57% of the Brazilian population. In 2017, 31.30% of Brazilians lived below the poverty line (poverty line = people earning approximately 1/3 of the national minimum wage). If it were not for Social Security, this percentage would be 46.50%, that is, Social Security was responsible for a 15.2% reduction in the level of poverty, which means that 30.9 million people were no longer below the poverty line. The data portrayed here undeniably demonstrate that Social Security is fulfilling its role in rescuing human dignity and solidifying social stability in thousands of municipalities that are often not part of the map of concerns of the “thinking elites” of our country<sup>26</sup>.

As we have seen, the great problem of Brazilian social security is not always centered on population aging, but on the condition of diversion of resources to pay financial expenses with high interest in areas other than health, social assistance, and pensions, creating an artificial deficit in the social protection system.

## 5 FINAL CONSIDERATIONS

From a historical point of view, the 1930s and 1980s were important for the Social Security in the face of several advances, since during this period several benefits were created, such as: maternity salary, monthly lifetime income for the elderly and disabled, retirement and pensions for the urban and rural workforce, inclusion of domestic workers, extension of occupational accident benefits to rural workers, among others.

In this line of approach, the current Social Security system emerged based on the Federal Constitution of 1988, in which historical transformations were introduced in the social protection system in democratic content, with a focus on the concept of social protection, supported by the triple financing system that protected the subsystems of health, social assistance and pensions.

As demonstrated by this scientific study supported by the CPIPREV Final Report, by ANFIP – National Association of Tax Auditors of Brazil, by DIEESE – Inter-Union Department of Statistics and Socioeconomic Studies, and by renowned specialists and scholars on the matter, we conclude that the great problem of the Social Security does not always focus on the condition of its income, but rather on the unlinking of resources for the payment of different expenses, such as the payment of interest and amortization of public debt or in areas other than health,

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<sup>25</sup> Análise da Seguridade Social 2020, ANFIP, Associação Nacional dos Auditores-Fiscais da Receita Federal do Brasil e Fundação ANFIP de Estudos Tributários e da Seguridade Social, Brasília, ANFIP, 2021, 182 p.

<sup>26</sup> FRANÇA, Álvaro Sólón de., *A Previdência Social e a Economia dos Municípios*. Artigo, Disponível <https://www.anfip.org.br/artigo-clipping-e-imprensa/a-previdencia-social-e-a-economia-dos-municipios-alvaro-solon-de-franca/>, Visualizado em 29/04/2022.

social assistance and retirement and pensions, creating the so-called deficit in the pension system and in Social Security.

Since article 195 of the Federal Constitution, binding mechanisms of social protection and constitutional taxes have been established to guarantee the social order and subsistence of these subsystems, health, Social Security, and social assistance, so that untying resources from Social Security violates principles of prohibition of social setback, that is, to make the effective protection guaranteed by our ordinary legislator unfeasible again.

Article 167 of the Federal Constitution of Brazil, item XI, states that the following are prohibited: “*the use of resources from social contributions referred to in article 195, item I, “a” and II, for expenses other than the payment of benefits of the General Social Security System referred to in article 201*”.

The Social Security Budget (OSS) should be prepared based on what was determined by the Federal Constitution of 1988 as provided in article 165, § 5, item III, without the inclusion of expenses with the specific regime of public servants and the military, as they do not are part of the General Social Security System (RGPS) and with the inclusion of the Union Contribution provided for in article 16 of Law 8.212 of 1991, Social Security costing law.

Factors such as population aging and early retirement are pointed out by the government as the only justification for reforming Social Security to maintain financial and actuarial balance, without taking into account the low economic development, increase in unemployment and informal work, tax exemptions, lack of fiscal policy for the collection of billions of debt by companies that owe Social Security, added to the Unlinking of Resources from the Union (DRU) that withdraws resources from Social Security and the high administrative costs, which leads us to believe that the policy of austerity approved by the Federal Government increases expenses with public administration, increases the number of unemployment and creates cuts in the social welfare system.

Following the example of the most developed countries, Brazil must resume economic growth, create new formal jobs, maintain jobs for the elderly population, as in Europe, create new sources of funding for the Social Security system, such as the tax on oil and gas, and urgently carry out administrative reform to wipe out the high salaries of the executive, legislative, judiciary and military, as well as their retirement and pensions.

Finally, we conclude that Social Security has a surplus, and it is your right.

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